IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.48 OF 2006

Shri Balu Dagdu Waghmare. ..Petitioner.

V/s.

The Food Corporation of India
& Ors. ..Respondents.

Mr.Avinash H. Fatangare for petitioner.

CORAM: A.M.KHANWILKAR,J

DATE : JUNE 23, 2006.

P.C. :

1. Heard counsel for the parties.

2. Grievance made in this petition is about non-compliance and wilful breach of the order passed by the Division Bench of this court dated 14th July, 2005 in Writ Petition No.5189 of 2004. It is stated in the paragraph-2 of the petition as follows:

> "2. The Petitioner states that by letter dated 18.8.2005, the Petitioner made a request to the Respondent to take him in service and provided work as there are 8 vacancies available with the Respondents out of which 3 vacancies are due to the death of workers and 5 vacancies are due to retirement of workers."

3. Notice was issued to the respondents. In response, the Regional Manager, Food Corporation of

India has filed affidavit before this court. The allegation made in the paragraph-2 of the petition referred to above is countered in this reply affidavit in the following terms.

> "However no work has been available thereafter which could be provided to the Petitioner or any other workman under the said scheme of 14.6.1996. The FCI has neither substituted any other scheme nor recruited any labourer after the floating/ implementing the scheme of 14.6.1996. Hence no work could be or can be given to the Petitioner.
>
> 3. With reference to para Nos.2 to 4 of the petition I say that the respondents received the letter dated 18.8.2005, addressed by the petitioner requesting to take him in service. The petitioner in the said letter stated that total 8 vacancies are available with FCI out of which 3 are due to death of workers and 5 are due to retirement of workers. I say that as per the policy decision, Voluntary Retirement Scheme (VRS) for the labourers of FCI was introduced in the year 2003-04 in which 315 loaders and 268 (GA) sought VRS during 2003-2004. These posts/vacancies including 8 vacancies stated by the petitioner in his letter were treated to be abolished and therefore no further requirement has been made till date. I reiterate that no recruitment scheme is not now existence and the respondents cannot entertain any fresh recruitment."

There is no reason to disbelieve the statement made on affidavit by the Regional Manger of the Respondent.

4. The counsel for the petitioner submits that

copy of this reply affidavit has been made available to him only yesterday and he would request for adjournment to take instructions. I see no reason to entertain this request. As mentioned earlier, the statement about the relevant fact is made on affidavit by none other than Regional Manager of the Corporation. I am therefore, not inclined to adjourn the matter. Instead, this petition is disposed of as it is not possible to conclusively hold that the respondents have committed breach much less willful breach of the direction of this court.

5. However, it will be open to the petitioner to place on record specific material to show that the statement made on affidavit by the Regional Manager of the Corporation in this case is incorrect. In that case, court may consider of reopening the present petition and proceed against the respondents particularly for action of aggravated contempt.

6. Petition disposed of on the above terms. Notice issued stands discharged.